



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 7599-21
Ref: Signature Date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

The Board determined that your personal appearance via video or telephonic, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A three-member panel of the Board, sitting in executive session, considered your application on 28 February 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were, reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 17 December 2021, and you were given 30 days in which to submit a response. When you did not provide a response, your case was submitted to the Board for consideration

You enlisted in the Navy and began a period of active duty on 15 October 1991. During the period from 12 August to 14 December 1993, you received four instances nonjudicial punishment (NJP) for two specifications of failing to obey a lawful order or regulation, failure to obey a lawful written order and one unknown offense(s). Based on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were discharged from the Navy on 11 April

1994, with an other than honorable characterization of service in lieu of trial by court-martial for offense(s) unknown.

Your original service record was incomplete and did not contain any documentation pertaining to your separation from the Navy. The Board noted that you provided no evidence to support your contentions. Absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering from Post-Traumatic Stress Disorder (PTSD) or mental health condition during your service. The AO noted that based on the available evidence, there is insufficient evidence that you incurred PTSD or another mental health condition during military service, and there is insufficient evidence that your misconduct could be attributed to PTSD or another mental health condition.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your assertions that you suffered a traumatic event while stationed aboard the █ when a generator blew up, your statement of support from a Shipmate with whom you were onboard during the deployment, and a letter of support from your mother attesting that you incurred depression following your military service. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that misconduct that resulted in four NJP's, what appears to be referral of charges to a court-martial, and your request for discharge outweighed these mitigating factors. The Board also concurred with the AO that based on the available evidence, there is insufficient evidence that you incurred PTSD or another mental health condition during military service, and there is insufficient evidence that your misconduct could be attributed to PTSD or another mental health condition. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/4/2022

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Executive Director

Signed by: █